IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

Civil Revision No.152 of 2007.

Date of decision:28.11.2007

State of H.P. **….Petitioner-Defendant**

Versus

Ram Dass **….Respondent-Plaintiff**

Coram

The Hon'ble Mr.Justice Dev Darshan Sud,J.

Whether approved for reporting ?[1]

For the Petitioner: **Mr.Rajan Dewan, Additional Advocate General.**

For the Respondents: **Mr.Ramakant Sharma, Advocate.**

Dev Darshan Sud,J.

This revision has been preferred by the defendant-State against the order of the learned trial Court, whereby the evidence of the defendant-petitioner was closed. By its order dated 18.8.2007, it was recorded that last opportunity had been granted to the State for summoning its evidence. However, the defendant-petitioner failed to take appropriate steps and no witness was present. The matter was listed for rebuttal evidence of the plaintiff and for arguments on 23.8.2007.

I have heard learned counsel for the parties and have gone through the record of the case.

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[1] ***Whether the reporters of Local Papers may be allowed to see the judgement*?**

It is urged before me that when the evidence of one witness, namely, Virender Kumar, was being recorded, documents, which were sought to be proved through him, were missing from the Court file. It is submitted that appropriate steps were to be taken by the petitioner for ensuring that the documents which were misplaced from the Court file may be reconstructed so that the evidence of the defendant could be completed and this fact was ignored by the learned trial Court.

The learned trial Court was in clear error in ignoring this fact. Adequate opportunity should have been given to the defendant to complete his evidence, more especially, when it was pointed that some documents could not be traced on the record of the Court file. Learned counsel for the respondent urged that adequate opportunity has been provided to the defendant to lead evidence.

Without entering into the other points raised, this revision petition is allowed. The order passed by the learned trial Court is quashed and set aside and it is directed that the defendant-petitioner would be given adequate opportunity to lead evidence in the case. This would be subject to the condition that the petitioner will pay costs of Rs.4,400/- to the plaintiff. The revision petition is accordingly allowed. The record of the trial Court, if received, should be sent back immediately.

The parties are directed to appear before the learned trial Court on **7.12.2007.**

November 28, 2007. **(Dev Darshan Sud)**
(aks) **Judge.**